



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

Cleta Mitchell, Esq.
Foley & Lardner, LLP
3000 K Street, NW, Suite 500
Washington, DC 20007

OCT 25 2007

RE: MUR 5875
National Rifle Association;
National Rifle Association Political Victory
Fund and Mary Rose Adkins, in her official
capacity as treasurer

Dear Ms. Mitchell:

On November 8, 2006, the Federal Election Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On October 9, 2007, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe the National Rifle Association and the National Rifle Association Political Victory Fund and Mary Rose Adkins, in her official capacity as treasurer, violated 2 U.S.C. § 441b. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Audra Wassom, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Shonkwiler".

Mark D. Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENT:** National Rifle Association; **MUR: 5875**
6 National Rifle Association Political Victory Fund
7 and Mary Rose Adkins, in her official capacity as
8 treasurer.
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11 **I. INTRODUCTION**

12 This complaint involves allegations that the National Rifle Association ("NRA") and its
13 separate segregated fund, the National Rifle Association Political Victory Fund ("NRAPVF"),
14 violated the Act by making "illegal in-kind contributions to federal candidates by expressly
15 advocating the election or defeat of federal candidates to the general public through [their] web
16 activities." See MUR 5875 Complaint. The specific web activities complained of are discussed
17 in more detail below.

18 Based on the reasons outlined below, the Commission found no reason to believe that the
19 National Rifle Association, the National Rifle Association Political Fund and Mary Rose Adkins,
20 in her official capacity as treasurer, violated 2 U.S.C. § 441b in this matter.

21 **II. FACTUAL AND LEGAL ANALYSIS**

22 **A. Facts**

23 The National Rifle Association ("NRA") is a 501(c)(4) corporation, which asserts that it
24 is the "foremost defender of Second Amendment rights" and "the premier firearms education
25 organization in the world." See www.nra.org/aboutus.aspx. The National Rifle Association
26 Political Victory Fund ("NRAPVF") is the NRA's separate segregated fund and is registered as a
27 political committee with the Commission. Mary Rose Adkins is the treasurer of NRAPVF. Both
28 organizations have websites, www.nra.org and www.nrapvf.org respectively. The web activities

1 complained of all occurred on the non-password protected portions of the websites that were
2 available to the general public.

3 The complaint primarily concerns activities conducted by NRAPVF during October of
4 2006. The activities complained of that occurred on the NRAPVF website included: (1)
5 endorsing candidates, (2) encouraging the public to vote for endorsed candidates, (3) publicizing
6 and encouraging the distribution of its radio and television advertising targeting specific races,
7 (4) including information regarding voter registration and GOTV drives on the same page as
8 information communicating endorsements and expressly advocating the election or defeat of
9 federal candidates, and (5) a tool to allow the general public to e-mail other members of the non-
10 restricted class publicizing the NRAPVF website. *See* MUR 5875 Complaint. In addition, the
11 complainant alleges that NRAPVF posted action alerts on numerous non-connected websites
12 directing visitors to the NRAPVF website.

13 The complaint also alleges that the NRA violated the Act by providing a link on the NRA
14 website to the NRAPVF website and providing links to the NRAPVF website in its corporate
15 action alerts that are distributed beyond the restricted class.

16 **B. Analysis**

17 The Act prohibits any corporation from making a "contribution or expenditure in
18 connection with any election to any political office." 2 U.S.C. § 441b(a); 11 C.F.R. § 114.2(a).
19 However, corporations are permitted to establish separate segregated funds under 11 C.F.R.
20 § 114.1(a)(2)(iii). NRAPVF appears to be a duly established separate segregated fund registered
21 with the Commission. As such it is permitted, using voluntary contributions, to communicate

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1 with the general public, as any other political committee would be, so long as such
2 communications do not solicit contributions. *See* 11 C.F.R. § 114.5(i).

3 NRAPVF does not appear to have solicited contributions on any portion of its website
4 available to the general public. There is no evidence which suggests that NRAPVF paid for the
5 communications on the portions of its website available to the general public with anything other
6 than voluntary contributions, and the complaint does not make such an allegation. Therefore, the
7 following communications that the complainant alleged violated the Act, which would be
8 permissible for a political committee to make, and which occurred on the publicly available
9 portion of the NRAPVF website, would be permissible for NRAPVF, as a separate segregated
10 fund, to make: (1) endorsing candidates, (2) encouraging the public to vote for endorsed
11 candidates, (3) publicizing and encouraging the distribution of its radio and television advertising
12 targeting specific races, (4) including information regarding voter registration and GOTV drives
13 on the same page as information communicating endorsements and expressly advocating the
14 election or defeat of federal candidates, and (5) a tool to allow the general public to e-mail other
15 members of the non-restricted class publicizing the NRAPVF website. Although it would be
16 very difficult to verify that all such communications were properly reported to the Commission
17 by NRAPVF without further information about the communications, including the relevant
18 vendors that NRAPVF made expenditures to for the specific communications, the response to the
19 complaint explicitly states that the communications were reported to the Commission.¹ *See*
20 MUR 5875 Response.

¹ NRAPVF reported \$2,146,900.56 in independent expenditures for the 2006 election cycle

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1 Regarding the action alerts posted by NRAPVF on non-connected websites directing
2 visitors to the NRAPVF website, the complainant does not indicate whether those postings were
3 paid for by NRAPVF or posted without payment. If NRAPVF paid to have the action alerts
4 posted on other non-connected websites, then the action alerts would constitute public
5 communications under 11 C.F.R. § 100.26. However, even as public communications, as
6 already stated above, so long as NRAPVF paid for the postings with voluntary contributions and
7 properly reported them to the Commission, no violation of the Act or the Commission's
8 regulations would result.

9 The complaint also alleges that the NRA violated the Act by providing a link on the NRA
10 website to the NRAPVF website and providing links to the NRAPVF website in its corporate
11 action alerts that are distributed beyond the restricted class. First, the link provided on the
12 NRA's website and in the NRA's corporate action alerts (which appear on the NRA's website
13 and the NRA's Institute for Legislative Action website) appears to have linked to the NRAPVF
14 homepage. Second, it does not appear that the NRAPVF homepage itself contained express
15 advocacy, candidate endorsements, voter guides, or other communications of an electoral nature
16 dealing with the current election cycle. The NRAPVF homepage appears to have contained
17 background information about NRAPVF and its past activities (including touting electoral
18 successes). A viewer could then follow links on the NRAPVF homepage to get to material
19 regarding the current election cycle. The NRAPVF homepage did not contain express advocacy
20 or other electoral content dealing with the current election cycle, and the cost of the link was
21 likely de minimis.

- 1 Accordingly, the Commission found no reason to believe that the National Rifle
- 2 Association, the National Rifle Association Political Victory Fund and Mary Rose Adkins, in her
- 3 official capacity as treasurer, violated 2 U.S.C. § 441b.

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